

WSR 23-11-153

PROPOSED RULES

SECRETARY OF STATE

[Filed May 24, 2023, 10:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-07-018.

Title of Rule and Other Identifying Information: General elections rule updates via citation corrections.

Hearing Location(s): On June 27, 2023, at 10:00 - 11:00 a.m., at Washington Secretary of State, Legislative Building, 416 Sid Snyder Avenue S.W., Olympia, WA 98504-0220. The hearing will be conducted using Microsoft Teams. To join the hearing, call 1-206-899-2560 and enter conference ID 160 989 358#. People will be able to listen to the hearing and comment.

Date of Intended Adoption: June 28, 2023.

Submit Written Comments to: Fina Ormond, P.O. Box 40229, Olympia, WA 98504, email fina.ormond@sos.wa.gov, fax 360-664-4169.

Assistance for Persons with Disabilities: Contact Fina Ormond, phone 360-902-4146, fax 360-664-4169, email fina.ormond@sos.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Citation updates in Title 434 WAC to update rules referencing recodified RCW and U.S.C.

Reasons Supporting Proposal: Consistency in administrative rules to align with RCW and U.S.C. to ensure all elections offices within the state are utilizing the correct citations and processes in administering elections.

Statutory Authority for Adoption: RCW 29A.04.611.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Stuart Holmes, Olympia, 360-902-4151.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Scope of exemption for rule proposal:

Is fully exempt.

May 24, 2023  
Randy Bolerjack  
Deputy Secretary of State

OTS-4413.1

AMENDATORY SECTION (Amending WSR 19-01-102, filed 12/18/18, effective 1/18/19)

**WAC 434-215-180 Write-in candidates.** A candidate desiring to file as a write-in candidate must file the write-in declaration of candidacy no later than 8:00 p.m. on election day. If a write-in declaration of candidacy is filed with the filing officer after the close of the regular candidate filing period per RCW 29A.24.050 and more than ~~((eighteen))~~ 18 days before a primary or election, no filing fee is required.

Candidates filing a write-in declaration of candidacy on or after the ~~((eighteenth))~~ 18th day before a primary or election must pay a filing fee at the time of filing the declaration. Offices with a fixed annual salary of more than ~~((one thousand dollars))~~ \$1,000 must pay a filing fee equal to one percent of the annual salary at the time of the regular filing period as per RCW ~~((29A.24.050))~~ 29A.24.091. For all other offices, a filing fee of ~~((twenty-five dollars))~~ \$25 is required.

[Statutory Authority: RCW 29A.04.611, 29A.24.091, 29A.24.311, 29A.60.021, 29A.60.185, 29A.60.170, 29A.60.110, and 29A.60.235. WSR 19-01-102, § 434-215-180, filed 12/18/18, effective 1/18/19. Statutory Authority: RCW 29A.04.611, 29A.04.620, and 29A.04.630. WSR 11-24-064, § 434-215-180, filed 12/6/11, effective 1/6/12.]

#### OTS-4414.1

AMENDATORY SECTION (Amending WSR 19-20-115, filed 10/2/19, effective 11/2/19)

**WAC 434-219-120 Certification of candidates.** (1) Per ~~((chapter 29A.56 RCW (section 2, chapter 7, Laws of 2019)))~~ RCW 29A.56.031, the party chair for each major party must provide that party's official list of candidates to the secretary of state no later than ~~((sixty-three))~~ 63 days prior to the primary. This list must include the full name of each candidate, the form of the candidate's name as it will appear on the ballot and a signature of the party chair certifying the list as the official party candidates.

(2) Per RCW 29A.56.040(4) each major party may request that the ballot for that party include a response position allowing the voter to indicate the voter's preference for having delegates to the party's national convention remain uncommitted.

(3) Immediately following the receipt of each major party's official list of candidates, the secretary of state shall certify to the county auditors the final list of candidates who will appear on the presidential primary ballot and a response position for uncommitted if requested by either party.

(4) Per ~~((chapter 29A.56 RCW (section 2, chapter 7, Laws of 2019)))~~ RCW 29A.56.031, if a major party chooses to accept votes for write-in candidates in the primary, the party chair for that major party must provide that party's official list of write-in candidates no later than the seventh day prior to the primary. This list must include the full name of each write-in candidate, and a signature of the

party chair certifying the list as the official party write-in candidates.

(5) Immediately following the last day for major political parties to submit write-in candidates, the secretary of state shall certify to the county auditors the final list of official write-in candidates to be counted for each party for the presidential primary.

[Statutory Authority: RCW 29A.04.611. WSR 19-20-115, § 434-219-120, filed 10/2/19, effective 11/2/19; WSR 15-24-001, § 434-219-120, filed 11/18/15, effective 12/19/15; WSR 07-24-044, § 434-219-120, filed 11/30/07, effective 12/31/07. Statutory Authority: RCW 29.19.070. WSR 00-03-003, § 434-219-120, filed 1/6/00, effective 2/6/00; WSR 96-03-141, recodified as § 434-219-120, filed 1/24/96, effective 2/24/96; WSR 91-18-012, § 434-75-120, filed 8/26/91, effective 9/26/91.]

### OTS-4415.3

AMENDATORY SECTION (Amending WSR 21-21-001, filed 10/6/21, effective 11/6/21)

**WAC 434-230-015 Ballots and instructions.** (1) Each ballot shall specify the county, the date, and whether the election is a primary, special or general.

(2) Each ballot must include instructions directing the voter how to mark the ballot, including write-in votes if candidate races appear on the ballot.

(3) Instructions that accompany a ballot must:

(a) Instruct the voter how to cancel a vote by drawing a line through the text of the candidate's name or ballot measure response;

(b) Notify the voter that, unless specifically allowed by law, more than one vote for an office or ballot measure will be an overvote and no votes for that office or ballot measure will be counted;

(c) Explain how to complete and sign the ballot declaration. The following declaration must accompany the ballot:

"I do solemnly swear or affirm under penalty of perjury that I am:

A United States citizen;

A Washington state resident that meets the requirements for voting mandated by state law;

At least 18 years old on election day, or 17 years old at the primary and 18 years old by the day of the November general election;

Voting only once in this election and not voting in any other United States jurisdiction;

Not serving a sentence of total confinement under the jurisdiction of the Department of Corrections for a Washington felony conviction or currently incarcerated for a federal or out-of-state felony conviction;

Not disqualified from voting due to a court order; and

Aware it is illegal to forge a signature or cast another person's ballot and that attempting to vote when not qualified, attempting to vote more than once, or falsely signing this declaration is a felony

punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both."

The declaration must include space for the voter to sign and date the declaration, for the voter to write his or her phone number, and for two witnesses to sign if the voter is unable to sign.

(d) Explain how the voter may make a mark, witnessed by two other people, if the voter is unable to write their signature;

(e) Explain that a power of attorney cannot be used to sign a ballot for someone else;

(f) Explain how to place the ballot in the security envelope/sleeve and place the security envelope/sleeve in the return envelope;

(g) Explain how to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;

(h) Explain how the voter may update their address;

(i) If applicable, include language with the reissued ballot notifying the voter that the reissued ballot is their current ballot;

(j) If applicable, explain that postage is required, or exactly how much postage is required. See WAC 434-250-200 on return postage;

(k) Explain that, in order for the ballot to be counted, it must be either postmarked no later than election day or deposited at a ballot drop box no later than 8:00 p.m. election day;

(l) Explain how to learn about the locations, hours, and services of voting centers and ballot drop boxes, including the availability of accessible voting equipment;

(m) Include, for a primary election that includes a partisan office other than a presidential primary race, a notice on an insert explaining:

"In each race, you may vote for any one candidate listed. The two candidates who receive the most votes in the primary will advance to the general election.

Each candidate for partisan office may state a political party that (~~he or she~~) the candidate prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(n)(i) Include, for a general election that includes a partisan office, the following explanation:

"If a primary election was held for an office, the two candidates who received the most votes in the primary advanced to the general election.

Each candidate for partisan office may state a political party that (~~he or she~~) the candidate prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(ii) In a year that president and vice president appear on the general election ballot, the following must be added to the statement required by (n)(i) of this subsection:

"The election for president and vice president is different. Candidates for president and vice president are the official nominees of their political party."

(4) Instructions that accompany a special absentee ballot authorized by RCW 29A.40.050 must also explain that the voter may request and subsequently vote a regular ballot, and that if the regular ballot

is received by the county auditor, the regular ballot will be tabulated and the special absentee ballot will be voided.

(5) Each ballot must explain, either in the general instructions or in the heading of each race, the number of candidates for whom the voter may vote (e.g., "vote for one").

(6) (a) If the ballot includes a partisan office other than a presidential primary race, the ballot must include the following notice in bold print immediately above the first partisan congressional, state or county office: "**READ: Each candidate for partisan office may state a political party that ((he or she)) the candidate prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate.**"

(b) When the race for president and vice president appears on a general election ballot, instead of the notice required by (a) of this subsection, the ballot must include the following notice in bold print after president and vice president but immediately above the first partisan congressional, state or county office: "**READ: Each candidate for president and vice president is the official nominee of a political party. For other partisan offices, each candidate may state a political party that ((he or she)) the candidate prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate.**"

(c) The same notice may also be listed in the ballot instructions.

(7) Counties may use varying sizes and colors of ballots, provided such size and color is used consistently throughout a region, area or jurisdiction (e.g., legislative district, commissioner district, school district, etc.). Varying color and size may also be used to designate various types of ballots.

(8) Ballots shall be formatted as provided in RCW 29A.36.161 and 29A.36.170.

(9) Removable stubs are not considered part of the ballot.

(10) If ballots are printed with sequential numbers or other sequential identifiers, the county auditor must take steps to prevent ballots from being issued sequentially, in order to protect secrecy of the ballot.

~~((Counties may use ballot envelopes with the previous declaration through December 2021.))~~

[Statutory Authority: RCW 29A.04.611. WSR 21-21-001, § 434-230-015, filed 10/6/21, effective 11/6/21; WSR 19-12-115, § 434-230-015, filed 6/5/19, effective 7/6/19; WSR 18-24-007, § 434-230-015, filed 11/26/18, effective 12/27/18; WSR 18-10-003, § 434-230-015, filed 4/19/18, effective 5/20/18; WSR 17-12-090, § 434-230-015, filed 6/6/17, effective 7/7/17; WSR 15-24-001, § 434-230-015, filed 11/18/15, effective 12/19/15; WSR 14-06-040, § 434-230-015, filed 2/26/14, effective 3/29/14. Statutory Authority: RCW 29A.04.611, 29A.04.620, and 29A.04.630. WSR 11-24-064, § 434-230-015, filed 12/6/11, effective 1/6/12. Statutory Authority: RCW 29A.04.611. WSR 09-18-098, § 434-230-015, filed 9/1/09, effective 10/2/09; WSR 08-15-052, § 434-230-015, filed 7/11/08, effective 8/11/08.]

## OTS-4416.1

AMENDATORY SECTION (Amending WSR 14-06-040, filed 2/26/14, effective 3/29/14)

**WAC 434-230-100 Political party precinct committee officer.** (1)

The election of major political party precinct committee officers is established in RCW 29A.52.171 and 29A.80.051.

(2) The election of precinct committee officer is an intraparty election; candidates compete against other candidates in the same political party.

(a) If only one candidate files for a position, that candidate is deemed elected without appearing on the ballot and the county auditor shall issue a certificate of election.

(b) If more than one candidate files for a position, the contested race must appear on the ballot at the primary and the candidate who receives the most votes is declared elected.

(c) If no candidates file during the regular filing period, the race does not appear on the ballot and the position may be filled by appointment pursuant to RCW ((~~29A.28.071~~) 29A.80.031).

(d) No write-in line may be printed on the ballot for a contested race, and no write-in votes may be counted.

(3) If both major political parties have contested races on the ballot in the same precinct, the political party that received the highest number of votes from the electors of this state for the office of president at the last presidential election must appear first, with the other political party appearing second. Within each party, candidates shall be listed in the order determined by lot.

(4) (a) The position of political party precinct committee officer must appear following all measures and public offices.

(b) The following explanation must be printed before the list of candidates: "For this office only: In order to vote for precinct committee officer, a partisan office, you must affirm that you are a Democrat or a Republican and may vote only for one candidate from the party you select. Your vote for a candidate affirms your affiliation with the same party as the candidate. This preference is private and will not be matched to your name or shared."

(c) (i) If all candidates are listed under one heading, the applicable party abbreviation "Dem" or "Rep" must be printed next to each candidate's name, with the first letter of the abbreviation capitalized. For example:

John Smith Dem

Jane Doe Dem

(ii) If candidates are listed under a major political party heading, the applicable heading of either "democratic party candidates" or "republican party candidates" must be printed above each group of candidates. The first letter of each word must be capitalized.

(d) One of the following statements, as applicable, must be printed directly below each candidate's name: "I affirm I am a Democrat." or "I affirm I am a Republican."

(5) A voter may vote for only one candidate, regardless of party, for precinct committee officer. If a voter votes for more than one candidate, the votes must be treated as overvotes.

[Statutory Authority: RCW 29A.04.611. WSR 14-06-040, § 434-230-100, filed 2/26/14, effective 3/29/14; WSR 12-14-074, § 434-230-100, filed

7/2/12, effective 8/2/12. Statutory Authority: RCW 29A.04.611, 29A.04.620, and 29A.04.630. WSR 11-24-064, § 434-230-100, filed 12/6/11, effective 1/6/12. Statutory Authority: RCW 29A.04.611. WSR 08-15-052, § 434-230-100, filed 7/11/08, effective 8/11/08.]

### OTS-4581.1

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

**WAC 434-235-010 Scope.** (1) This chapter implements the Uniformed and Overseas Citizens Absentee Voting Act, ((42)) 52 U.S.C. Sec. ((1973ff)) 20301, the Military and Overseas Voter Empowerment Act, ((42)) 52 U.S.C. Sec. ((1973ff)) 20301, and the provisions for service and overseas voters in Title 29A RCW.

(2) Absent uniformed service voter is defined in ((42)) 52 U.S.C. Sec. ((1973ff-6(1))) 20310(1) as:

(a) A member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(b) A member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; ((or)) and

(c) A spouse or dependent of a member referred to in (a) or (b) of this subsection who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.

(3) Service voter is defined in RCW 29A.04.163 as any elector of the state of Washington who:

(a) Is a member of the armed forces under ((42)) 52 U.S.C. Sec. ((1973ff-6)) 20301(1) while in active service;

(b) Is a member of a reserve component of the armed forces;

(c) Is a student or member of the faculty at a United States military academy;

(d) Is a member of the merchant marine of the United States; or

(e) Is a member of a religious group or welfare agency officially attached to and serving with the armed forces of the United States.

(4) References in Title 434 WAC to "service voter" include voters who meet either the federal definition for "uniformed service voter" or the state definition for "service voter."

(5) Overseas voter is defined in ((42)) 52 U.S.C. Sec. ((1973ff-6(5))) 20310(5) as:

(a) An absent uniformed services voter who, by reason of active duty or service is absent from the United States on the date of the election involved;

(b) A person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or

(c) A person who resides outside the United States and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States.

(6) Overseas voter is defined in RCW 29A.04.109 as any elector of the state of Washington outside the territorial limits of the United States.

[Statutory Authority: RCW 29A.04.611, 29A.04.620, and 29A.04.630. WSR 11-24-064, § 434-235-010, filed 12/6/11, effective 1/6/12. Statutory Authority: RCW 29A.04.611, 29A.04.255. WSR 11-05-008, § 434-235-010, filed 2/3/11, effective 3/6/11. Statutory Authority: RCW 29A.04.611. WSR 07-20-074, § 434-235-010, filed 10/1/07, effective 11/1/07.]

## OTS-4582.1

AMENDATORY SECTION (Amending WSR 20-19-045, filed 9/10/20, effective 10/11/20)

**WAC 434-250-350 Student engagement hubs.** Pursuant to ((~~chapter 29A.40 RCW, section 10, chapter 208, Laws of 2020 (ESB 6313)~~)) RCW 29A.40.180, the county auditor and any educational institution within the county that are statutorily required to host a hub must enter a contract to operate a student engagement hub.

(1) For all institutions operating student engagement hubs, the contract must include:

(a) A method for voters to download and print the voter's ballot for the exact precinct and precinct split from the voter's county of registration from an online portal;

(b) Provisions for protecting the privacy and secrecy of any voted ballot;

(c) Provision of instruction for voters on how to return a ballot;

(d) Provision of services to those in line at 8:00 p.m. on election day to obtain a ballot, vote, and deposit their voted ballot;

(e) Provision of a secured ballot drop box at the hub, following current ballot drop box procedures for emptying the contents and closing the box at the conclusion of hub operations;

(f) Ensuring that when a voter is in line at the hub at 8:00 p.m. or earlier on election day, their ballot may be deposited in the drop box after 8:00 p.m., but no other voters can use the drop box after 8:00 p.m.

(g) Ensuring operation of the hub in a nonpartisan manner while allowing no campaign materials or campaigning within a minimum of at least ((~~twenty-five~~)) 25 feet of the entrances and exits of the hub facility, or within the hub;

(h) Provision of accessible facilities compliant with the Americans with Disabilities Act.

(2) For institutions operating student engagement hubs that are statutorily required to include voter registration services, the contract must also include:

(a) An agreed upon method of voter registration services for all eligible citizens at the hub;

(b) Setting the hours of operation as the county auditor's normal working hours and, on Election Day, starting at normal business opening and extended until 8:00 p.m.;

- (c) An agreement detailing the days that the hub will be in operation up to the statutory maximum of eight days prior to the election;
- (d) Provision to the hub of at least the following services by agreement between the county auditor and the university or college:
- (i) Staffing;
  - (ii) Availability of provisional ballots;
  - (iii) Provision of notice of the availability of services;
  - (iv) Provision of appropriate voter information including voter pamphlets; and
  - (v) Provision of services to those in line at 8:00 p.m. on election day to register to vote, obtain a ballot, vote, and deposit their voted ballot.
- (3) The prohibitions listed in chapter 29A.84 RCW for voting centers and ballot drop boxes also apply to student engagement hubs.
- (4) Hub staff may provide postage stamps for voters that choose to mail their ballot.

[Statutory Authority: RCW 29A.04.611. WSR 20-19-045, § 434-250-350, filed 9/10/20, effective 10/11/20.]

### OTS-4417.3

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

**WAC 434-261-125 Free access system for provisional ballots.** (1)

Each county shall establish a free access system, as required by the Help America Vote Act, (~~(42 U.S.C. sec. 15482 (a)(5))~~) 52 U.S.C. § 21082 (a)(5)(B), and RCW 29A.60.195 for provisional ballot voters.

(2) The free access system must employ measures to ensure that access is free of cost to the voter and restricted to the individual who cast the ballot, and that the voter's personal information is secure and confidential.

(3) For provisional ballots sent to other counties in the state, the free access system must provide the voter with information as to where the ballot was sent and how to find out if the ballot was counted in that county.

(4) For ballots received from another county, the free access system must provide the voter with information as to whether the ballot was counted and, if not, why. The county may send instructions to the voter on how to access the information.

(5) Provisional ballot disposition information must be available on a county's free access system no later than one week following certification of the election.

[Statutory Authority: RCW 29A.04.611, 29A.04.620, and 29A.04.630. WSR 11-24-064, § 434-261-125, filed 12/6/11, effective 1/6/12.]

### OTS-4418.3

AMENDATORY SECTION (Amending WSR 04-16-037, filed 7/27/04, effective 8/27/04)

**WAC 434-263-005 Purpose.** The purpose of these rules is to adopt an administrative complaint procedure mandated by (~~42 U.S.C. § 15512(a)~~) 52 U.S.C. § 21112, relating only to state implementation of Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), for both state and federal elections. This process may not be used for the purpose of contesting the results of any primary or election. Election contests are governed by chapter 29A.68 RCW.

[Statutory Authority: RCW 29A.04.610. WSR 04-16-037, § 434-263-005, filed 7/27/04, effective 8/27/04.]

### OTS-4419.3

AMENDATORY SECTION (Amending WSR 04-16-037, filed 7/27/04, effective 8/27/04)

**WAC 434-263-010 Definitions.** For purposes of this chapter, the following terms shall have the following meanings:

- (1) "Complainant" means the person who files a complaint under this chapter.
- (2) "Election" means a special, primary or general election.
- (3) "Respondent" means any state or local election official whose actions are asserted, in a complaint under this chapter, to be in violation of Title III.
- (4) "Secretary" means the secretary of state or his or her designee.
- (5) "State or local election official" means the secretary of state, any county auditor, or any person employed by either the secretary or an auditor whose responsibilities include or directly relate to the administration of any election.
- (6) "Title III" means Title III of the Help America Vote Act of 2002, (~~Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code §§ 15481-15485~~) 52 U.S.C. §§ 21081-21102. Violations include, but are not limited to, voting system standards, provisional voting, accessibility for individuals with disabilities, and voter registration.

[Statutory Authority: RCW 29A.04.610. WSR 04-16-037, § 434-263-010, filed 7/27/04, effective 8/27/04.]

### OTS-4420.2

AMENDATORY SECTION (Amending WSR 20-13-043, filed 6/10/20, effective 7/11/20)

**WAC 434-324-031 Electronic voter registration.** (1) The secretary of state's electronic voter registration web page must have the capability to:

(a) Reject applicants without a Washington state driver's license, state identification card, or valid tribal identification as ((defined)) required by RCW 29A.08.123 ((and 29A.40.160));

(b) Require the applicant to affirmatively assent to the use of the applicant's driver's license, state identification card, or valid tribal identification card signature for voter registration purposes;

(c) Require the applicant to attest to the truth of the information provided on the application;

(d) Retrieve a digital copy of each applicant's driver's license or state identification card signature from the department of licensing or from an issuer of tribal identification that has agreed to make digitized signature information available for this purpose, and include it with the other information required for each applicant's voter registration; and

(e) Electronically transfer all information required for each applicant's voter registration to their county auditor for entry into the statewide voter registration database.

(2) The same timelines and processes used for registration by mail apply to electronic registration. A county auditor shall accept online and by mail applications no later than eight days before an election, and in-person applications at locations designated by the county auditor until 8:00 p.m. on election day.

[Statutory Authority: RCW 29A.04.611. WSR 20-13-043, § 434-324-031, filed 6/10/20, effective 7/11/20; WSR 19-12-115, § 434-324-031, filed 6/5/19, effective 7/6/19. Statutory Authority: RCW 29A.04.611, 29A.04.620, and 29A.04.630. WSR 11-24-064, § 434-324-031, filed 12/6/11, effective 1/6/12. Statutory Authority: RCW 29A.04.611. WSR 07-24-044, § 434-324-031, filed 11/30/07, effective 12/31/07.]

#### **OTS-4424.1**

AMENDATORY SECTION (Amending WSR 22-10-041, filed 4/27/22, effective 5/28/22)

**WAC 434-324-045 Verification of applicant's identity.** (1) If the applicant is provisionally registered pursuant to WAC 434-324-040(~~(5)~~), the county auditor may use other government resources and public records to confirm the applicant's driver's license or state identification card number, valid tribal identification card, or the last four digits of the applicant's Social Security number. The county auditor may also attempt to contact the applicant by phone, email or other means to obtain identification information.

(2) If, after these attempts, the county auditor is still unable to verify the applicant's identity, the county auditor must send the applicant an identification notice at the time of registration that includes a postage prepaid, preaddressed form by which the applicant

may verify or send additional information. The identification notice must include:

- (a) A statement explaining that because the applicant's identity cannot be verified with the information provided on the application, they have been provisionally registered to vote.
- (b) A statement explaining that if this additional information is not provided, the applicant's ballot will not be counted.
- (c) A statement explaining that federal law requires the applicant to provide their driver's license number, state identification card number, valid tribal identification card number or the last four digits of their Social Security number, or a copy of one of the following forms of identification, either before or when they vote:
  - (i) Valid photo identification;
  - (ii) A valid enrollment card of a federally recognized tribe in Washington;
  - (iii) A current utility bill, or a current bank statement;
  - (iv) A current government check;
  - (v) A current paycheck; or
  - (vi) A government document, other than a voter registration card, which shows both the registrant's name and current address.
- (3) If the applicant responds with updated driver's license, state identification card, valid tribal identification card, or Social Security information, or with a copy of one of the alternative forms of identification, the flag on the voter registration record must be removed, allowing the applicant's ballot to otherwise be counted the first time they vote after registering.
- (4) If the applicant fails to respond with adequate documentation to verify the applicant's identity, the applicant's voter registration record must remain flagged. The applicant must be notified at the time of each election that the ballot will not be counted unless adequate verification of identity is provided.
- (5) A provisional registration must remain on the official list of registered voters for at least two general elections for federal office. If, after two general elections for federal office, the voter still has not verified or provided information to verify identity, the provisional registration shall be canceled.
- (6) The county auditor shall mail an identification notice to a primary-only voter, as defined in WAC 434-232-010, no earlier than 90 days before the primary that they are eligible to participate in.
- (7) The county auditor shall not mail an identification notice to a participant in the future voter program established under RCW 29A.08.170 until the participant becomes a registered voter.

[Statutory Authority: RCW 29A.04.611. WSR 22-10-041, § 434-324-045, filed 4/27/22, effective 5/28/22; WSR 20-13-043, § 434-324-045, filed 6/10/20, effective 7/11/20; WSR 14-06-040, § 434-324-045, filed 2/26/14, effective 3/29/14. Statutory Authority: RCW 29A.04.611, 29A.04.620, and 29A.04.630. WSR 11-24-064, § 434-324-045, filed 12/6/11, effective 1/6/12. Statutory Authority: RCW 29A.04.611. WSR 09-18-098, § 434-324-045, filed 9/1/09, effective 10/2/09; WSR 09-12-078, § 434-324-045, filed 5/29/09, effective 6/29/09; WSR 09-03-110, § 434-324-045, filed 1/21/09, effective 2/21/09; WSR 07-24-044, § 434-324-045, filed 11/30/07, effective 12/31/07; WSR 07-02-100, § 434-324-045, filed 1/3/07, effective 2/3/07.]

## OTS-4425.1

AMENDATORY SECTION (Amending WSR 20-13-043, filed 6/10/20, effective 7/11/20)

**WAC 434-324-108 Incapacitated persons lacking voting rights—Notice from court.** Upon receipt of a court order declaring an incapacitated person does not retain voting rights as outlined in RCW (~~(11.88.010)~~) 11.130.310, the auditor must search the state election management system to determine whether the person is a registered voter. If the auditor determines the incapacitated person's name and other identifying information match, they must cancel the incapacitated person's voter registration and send a cancellation notice to the incapacitated person using the last known address.

[Statutory Authority: RCW 29A.04.611. WSR 20-13-043, § 434-324-108, filed 6/10/20, effective 7/11/20; WSR 12-14-074, § 434-324-108, filed 7/2/12, effective 8/2/12; WSR 06-11-041, § 434-324-108, filed 5/10/06, effective 6/10/06.]

## OTS-4423.1

AMENDATORY SECTION (Amending WSR 16-13-063, filed 6/13/16, effective 7/14/16)

**WAC 434-335-280 Logic and accuracy test conduct.** The county must provide adequate personnel to properly operate the ballot tabulation system. Whenever possible, the system shall be operated during the test by the same person or persons who will be responsible for operating the system on election day. The official logic and accuracy test shall be conducted as follows:

(1) Every ballot tabulator and scanner to be used in the primary or election shall be tested. Digital scan test decks shall be scanned during the official logic and accuracy test.

(2) Undervotes recorded by a digital scan system used to resolve or adjudicate ballots digitally shall be auto-resolved. Some undervotes may be manually resolved to demonstrate the process.

(3) Optical scan tabulators and digital scan tabulators not used to resolve or adjudicate ballots digitally shall be set to out-stack blank ballots, overvotes, and write-in votes.

(4) A printout of the test results shall be produced and compared to the expected test results. If the test results do not match the expected test results, the reason for the discrepancy must be satisfactorily determined and corrections made, if necessary.

(5) The upload of results to the secretary of state's office shall be tested and verified. If the upload of results cannot be completed, the results shall be transmitted to the office of the secretary of state through other means, and the county auditor shall work with the secretary of state to upload the results as soon as practicable.

[Statutory Authority: RCW 29A.04.611 and 29A.04.620. WSR 16-13-063, § 434-335-280, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 29A.04.611. WSR 14-06-040, § 434-335-280, filed 2/26/14, effective 3/29/14; WSR 05-18-022, § 434-335-280, filed 8/29/05, effective 9/29/05.]